

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **VICE CHAIRMAN DUANE GRIMES**, on January 19, 2001 at 3 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Duane Grimes, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Eve Franklin (D)
Sen. Don Hargrove (R)
Sen. Dan Harrington (D)
Sen. Royal Johnson (R)
Sen. Jerry O'Neil (R)
Sen. Emily Stonington (D)

Members Excused: Sen. Al Bishop, Chairman (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Jeanne Forrester, Committee Secretary
Susan Fox, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 108, 1/16/2001; SB 135,
1/16/2001
Executive Action: SB 135; SB 108; SB 194; SB 34;
SB 88

HEARING ON SB 108

Sponsor: SEN. EVE FRANKLIN, SD 21, Great Falls

Proponents: Leslie Garvin, Board Of Visitors

Kathy McGowan, Montana Council of Community Mental Health Centers

Ed Amberg, Montana State Hospital

Randy Poulsen, Department of Public Health and Family Services

Kristi Blazer, Children's Comp Services

Sami Butler, Montana Nursing Services

Jani McCall, Deaconess Billings Clinic

SEN. MIGNON WATERMAN, SD 26, Helena

SEN. BOB KEENAN, SD 38, Bigfork

Brian Garrity, Mental Health Oversight Advisory Council

Opponents: None

Opening Statement by Sponsor:

SEN. EVE FRANKLIN, SD 21, Great Falls, introduced SB 108. There are two things this bill covers; the shortage of health care professionals able to provide services to those needing mental health services. This shortage is also caused by the geographics of the state. The state hospital has struggled to retain psychiatrists and this bill gives the Montana State Hospital clear authority to hire advanced practice registered nurses in a position to be evaluating patients and prescribing medications. This bill will make everyone more comfortable in that it explicitly gives full permission to do this. This will offer continuity in care and continuity is service. The other thing this bill does is redefine a professional person to include an advanced practice registered nurse, so they can be legitimized to do business with the Montana State Hospital. Currently, the only persons who are defined as professional persons are physicians. This bill would take away some of the unnecessary barriers for people seeking care, by including advanced practice registered nurses.

Proponents' Testimony:

SEN. WATERMAN, SD 26, Helena, as a member of Mental Health Oversight Committee, is in support of this bill.

Ed Amberg, Administrator, Montana State Hospital, said this is an important piece of legislation. Last fall he had the opportunity to hire 2 nurse practioners to work on his staff. When he looked into the law, he found these individuals would not be able to prescribe medications; which is an important part of the job. Since they had to hesitate in hiring these persons, they took jobs in other places.

Sami Butler, Montana Nurses Association, said they support this bill. Advanced practiced registered nurses with a clinical specialty in psychiatric mental health have advance clinic training to care for those with a serious mental illness. There is a clinical shortage of qualified mental health professionals in this state, and we need to recognize the resources we have in Montana. This bill is an important step in providing cost effective psychiatric care to individuals in mental health facilities.

Leslie Garvin, Attorney, Montana State Hospital Board Of Visitors, supports SB 108 and submitted her testimony **EXHIBIT** (phs15a01) .

Kathy McGowan, Montana Council of Community Mental Health Centers, said the mental health centers really count on these nurses, when they can get their hands on them. It would be nice if the state mental hospitals could take advantage and hire these individuals.

Randy Poulsen, Department of Public Health and Family Services, said we support the portion of the bill that recognizes advanced practiced registered nurses as professional persons. He would like to clarify the role of professional person. Professional persons have the right to testify in commitment hearings, and this is a very serious function. The designation of professional persons is not a designation we take lightly and it is more than just passing a test. He said they support the bill.

Jani McCall, Deaconess Billings Clinic, said they strongly support this bill.

Brian Garrity, Mental Health Oversight Advisory Council, said the council wants to go on record for supporting this bill.

Dana Hillyer, Registered Nurse, submitted a letter of support **EXHIBIT** (phs15a02) .

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Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. O'NEIL asked if you can, would you consider having physician assistants (PA) do this job. **Mr. Amberg** stated we have

considered that, but we haven't looked at physician assistants at this time.

SEN. O'NEIL asked if it is that you don't feel comfortable adding them at this time. **Mr. Amberg** said that nurse practioners can practice more independently.

SEN. JOHNSON asked if these positions are included in the budget. **Mr. Amberg** said there are no positions attached in the bill, since these positions are already included in the budget.

SEN. STONINGTON asked if you define someone as a professional person, does that just eliminate the need for them to take a test. **SEN. FRANKLIN** said in order to be designated as a professional person, they must submit an application to the DPHHS, if the application is approved, the person then takes a test in order to become designated. The present exemptions are for physicians.

SEN. STONINGTON asked why we need this status of professional persons. **SEN. FRANKLIN** said the department wants to have some assurances that the people working understand, to some degree, the ramifications of working with people with mental illness. However, having this requirement in the law does create barriers for finding people who can do the job.

SEN. GRIMES asked if advanced practical registered nurses are working in the mental health area in other states. **Ms. Butler** said yes they are doing this in other states.

Closing by Sponsor:

SEN. FRANKLIN said one of the differences between PA's and APRN's is that APRN's have an independent scope of practice. This bill does not expand the scope of practice. She asked for support of this bill.

{Tape : 1; Side : A; Approx. Time Counter : 13.3 - 26}

HEARING ON SB 135

Sponsor: **SEN. MIGNON WATERMAN, SD 26, Helena**

Proponents: **Kathy McGowan, Montana Council of Community Mental Health Centers**
Randy Poulsen, Department of Public Health and Family Services

Bonnie Adee, Mental Health Ombudsman
Jani McCall, Deaconess Billings Clinic
Brian Garrity, Mental Health Oversight Advisory
Council
SEN. BOB KEENAN, SD 38, Bigfork
Ed Amberg, Montana State Hospital

Opponents: None

Opening Statement by Sponsor:

SEN. MIGNON WATERMAN, SD 26, Helena, introduced SB 135. It is a bill that makes some revisions to Ombudsman statutes. This position was created last session, as we worked to revise the mental health system. These changes include attaching this office to the Governor's office. The Ombudsman's office is already making an annual report to the Governor and the Legislature. Also, this bill would make it official for asking for recommendations as an expected part of the position. It would also clarify the Ombudsman does not make legal recommendations, but would have subpoena power. There is an amendment **EXHIBIT (phs15a03)** regarding legal counsel, clarifying the role of the attorney general and also provides for confidentiality. **SEN. WATERMAN** urged support of this bill.

Proponents' Testimony:

Bonnie Adee, Mental Health Ombudsman, said the first request is to change the name from Mental Health Managed Care Ombudsman to Mental Health Ombudsman. Also, it would clarify the change from the Mental Disabilities Board of Visitor's attachment to the Governor's office. This is more of a structural change than a practical change. She distributed a 1999 report **EXHIBIT (phs15a04)**. In the area of legal advice, the ombudsman may not provide a legal advocacy service. In regard to being able to subpoena records, the need to do this has only come up once in the last 18 months. It is more of a fact of having subpoena power; rather than the use of it. When it comes to confidentiality, she feels it is important that all investigations remain confidential. Finally, her office currently uses a written release form to access information; a verbal release would speed up the process of obtaining information.

Randy Poulsen, Department of Public Health and Family Services, supports this bill. The office has been useful to both the department and to the consumers.

Jani McCall, Deaconess Billings Clinic, Mental Health Services,

wants to go on record in support of this legislation.

Brian Garrity, MHOAC, supports this legislation.

Sen. Bob Keenan, SD 38, Bigfork, supports this legislation.

Sami Butler, Montana Nurses Association, supports this bill.

Ed Amberg, Montana State Hospital, supports this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. FRANKLIN wondered about the exceptions to keeping records confidential, as stated title 50, chapter 16, part 5. **Ms. Fox** said this refers to Uniform Health Care Information Act or the Government Health Care Information Act, which have provisions on how people can share information.

SEN. CHRISTIAENS wondered about the ability or nonability to work with those who are incarcerated. **Ms. Adee** believes it allows for it, by stating "individuals who are in need of public mental health services".

SEN. CHRISTIAENS wondered if an inmate contacts you regarding his mental health, what do you do. **Ms. Adee** responded her ability to respond is limited, because of the inability for her to access information within the correctional system. From her understanding of the current language, her ability would be very limited.

SEN. CHRISTIAENS is very concerned about those who are incarcerated. He has been told that at least 34% of those in the jail population and the prison population have a mental illness of some form. **Ms. Adee** says the mandate doesn't prohibit them from serving that population, but there is only 1.5 of them to carry this mandate out.

SEN. CHRISTIAENS says that for Glendive and the Dawson County regional jail, the nearest professional is in Miles City, and that contact is almost nil.

SEN. FRANKLIN says she needs clarification with the state penal system on how they handle inmates records. **Ms. Adee** believes she could access those records.

SEN. HARGROVE do you have much contact with people. **Ms. Adee** said in the first year they had contact with 400 families and are running close to that number for this year.

SEN. STONINGTON asked where their office is located. **Ms. Adee** said they are located on 8th Ave in the lower level of the State Historic Preservation Office.

SEN. GRIMES asked **SEN. WATERMAN** to give some examples of investigation when legal advise is needed.

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Closing by Sponsor:

SEN. WATERMAN the question of legal advise probably comes when a consumer is lost and doesn't know where to turn. Please support this bill.

EXECUTIVE ACTION ON SB 135

Motion: **SEN. JOHNSON** moved that **SB 135 DO PASS AS AMENDED, (SB013501.asf) EXHIBIT (3).**

Discussion:

SEN. GRIMES wants to know what is the extent of her investigation. **Ms. Adee** sees the scope of her investigation powers is to stay within the mandate of her office. These investigative powers are limited by mandate and are also limited by the resources of 1.5 people to do the work.

SEN. O'NEIL would like the ombudsman to have the power to handle cases in the prison system. **SEN. CHRISTIAENS** said he doesn't believe it does. **Ms. Fox** said she is not sure in practice how this works, but as long as there is a disclaimer from the inmate, you can access those records. **SEN. FRANKLIN** believes that health care records are kept separately from disciplinary records.

SEN. CHRISTIAENS asked what access do you have to records relating to an issue with a child with the DPHHS. **Ms. Adee** has had access to verbal information with permission of the parent. If the parent is no longer custodial, she cannot get information.

Vote: Motion **carried 10-0. Sen. Bishop voted by proxy.**

EXECUTIVE ACTION ON SB 108

Motion/Vote: SEN. HARRINGTON moved that SB 108 DO PASS. Motion carried 10-0. Sen. Bishop voted by proxy.

EXECUTIVE ACTION ON SB 194

Motion/Vote: SEN. CHRISTIAENS moved that SB 194 DO PASS AS AMENDED(SB019402.and) **EXHIBIT**(phs15a05). Motion carried 10-0. Sen. Bishop voted by proxy.

EXECUTIVE ACTION ON SB 34

Discussion:

SEN. CHRISTIAENS asked if these amendments leave the personnel as they are and does not exempt them. Ms. Fox says the amendment returns the bill to status quo. SEN. GRIMES said we have far more flexible personnel policies then we had in the past with regard to pay.

Motion/Vote: SEN. HARRINGTON moved that SB 34 BE AMENDED **EXHIBIT**(phs15a06) SB003401.asf. Motion carried 9-1 with Johnson voting no. SEN. BISHOP voted aye by proxy.

SEN. JOHNSON said he voted no because he did not want the amendment to pass.

Motion/Vote: SEN. STONINGTON moved that SB 34 DO PASS AS AMENDED. Motion carried 10-0. SEN. BISHOP voted by proxy.

EXECUTIVE ACTION ON SB 88

Motion: SEN. CHRISTIAENS moved that SB 88 DO PASS.

Discussion:

SEN. JOHNSON said this bill reduces the cost of taking care of these people by 72%. SEN. GRIMES said maybe he doesn't understand this bill. SEN. CHRISTIAENS explained when we use

Medicaid dollars the match for the state is 30% if these persons aged 18 - 21 are Medicaid eligible.

Vote: Motion **carried 10-0.** **SEN. BISHOP** voted by proxy.

{Tape : 2; Side : A; Approx. Time Counter : 0}

SEN. STONINGTON requested we do executive action on SB 116 on Wednesday, January 24, 2001. **Ms. Forrester** will contact **Judge Larson** and see if he can attend the meeting.

ADJOURNMENT

Adjournment: 4:40 P.M.

SEN. AL BISHOP, Chairman

JEANNE FORRESTER, Secretary

AB/JF

EXHIBIT (phs15aad)